

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
AMIT PATEL,

Plaintiff,

-against-

FAN DUEL, INC., *et al.*,Defendants.
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24-CV-7402 (VSB)

ORDERVERNON S. BRODERICK, United States District Judge:

On October 1, 2024, Plaintiff filed this action against Defendants Fan Duel, Inc., Flutter Entertainment plc, Boyd Gaming Corp., FOX Corporation, XYZ Corps. 1–10, and Jane and John Does 1–10. (Doc. 1.) On October 2, 2024 Plaintiff obtained summonses with regard to Defendants Fan Duel, Inc., Flutter Entertainment plc, Boyd Gaming Corp., and FOX Corporation. (Docs. 8–11). Defendants Boyd Gaming Corp. and FOX Corporation have appeared in this action. (Docs. 12, 16.) To date, however, Plaintiff has not filed affidavits of service or taken any other action to prosecute this case against Defendants Fan Duel, Inc. and Flutter Entertainment plc, who have not appeared or responded to the complaint. Accordingly, it is hereby:

ORDERED that, no later than January 9, 2025, Plaintiff shall file affidavits of service showing that Defendants Fan Duel, Inc. and Flutter Entertainment plc were timely served. If they were timely served, Plaintiff has taken no action to prosecute this case against them. Accordingly, if Plaintiff intends to seek a default judgment against Defendants Fan Duel, Inc. and Flutter Entertainment plc, Plaintiff is directed to do so in accordance with Rule 4(H) of my Individual Rules and Practices in Civil Cases by no later than January 9, 2025. If Plaintiff fails

to do so or otherwise demonstrate that Plaintiff intends to prosecute this litigation, I may dismiss this case against Defendants Fan Duel, Inc. and Flutter Entertainment plc for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

ORDERED that, if Defendants Fan Duel, Inc. and Flutter Entertainment plc were not timely served, Plaintiff shall submit, no later than January 9, 2025, a letter of no more than three (3) pages, supported by legal authority, demonstrating good cause as to why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). “Good cause is generally found only in exceptional circumstances where the plaintiff’s failure to serve process in a timely manner was the result of circumstances beyond its control.” *E. Refractories Co. v. Forty Eight Insulations, Inc.*, 187 F.R.D. 503, 505 (S.D.N.Y. 1999) (internal quotation marks omitted). “District courts consider the diligence of plaintiff’s efforts to effect proper service and any prejudice suffered by the defendant as a consequence of the delay.” *Id.* (internal quotation marks omitted). “An attorney’s inadvertence, neglect, mistake or misplaced reliance does not constitute good cause.” *Howard v. Klynveld Peat Marwick Goerdeler*, 977 F.Supp. 654, 658 (S.D.N.Y. 1997) (citing *McGregor v. United States*, 933 F.2d 156, 160 (2d Cir.1991), *aff’d*, 173 F.3d 844 (2d Cir. 1999)). Plaintiff is warned that failure to submit a letter and to demonstrate good cause for failure to serve Defendants Fan Duel, Inc. and Flutter Entertainment plc within ninety days after the complaint was filed will result in dismissal of this action against them.

SO ORDERED.

Dated: January 2, 2025
New York, New York



VERNON S. BRODERICK
United States District Judge